
By: **Delegates Bozman and Conway**
Introduced and read first time: February 7, 2003
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake Bay and Atlantic Coastal Bays Critical Area Protection**
3 **Programs - Revision**

4 FOR the purpose of altering a certain definition to include certain additional family
5 members in the intrafamily transfer provisions of the critical area law; altering
6 a certain exemption for the initial development of certain land from the
7 requirements of the Atlantic Coastal Bays Critical Area Program; altering a
8 certain contingency on the effective date of a certain exemption; and generally
9 relating to the Chesapeake Bay and Atlantic Coastal Bays Critical Area
10 Protection Programs.

11 BY repealing and reenacting, with amendments,
12 Article - Natural Resources
13 Section 8-1808.2
14 Annotated Code of Maryland
15 (2000 Replacement Volume and 2002 Supplement)

16 BY repealing and reenacting, with amendments,
17 Chapter 433 of the Acts of the General Assembly of 2002
18 Section 5 and 6

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Natural Resources**

22 8-1808.2.

23 (a) (1) In this section the following words have the meanings indicated.

24 (2) "Bona fide intrafamily transfer" means a transfer to a member of the
25 owner's immediate family of a portion of the owner's property for the purpose of
26 establishing a residence for that family member.

1 (3) "Immediate family" means a father, mother, son, daughter,
2 grandfather, grandmother, grandson, [or] granddaughter, BROTHER, OR SISTER.

3 (b) Notwithstanding density limitations established in criteria of the
4 Commission, as part of its local program, a local jurisdiction may submit provisions by
5 which an owner of a parcel of land in the resource conservation area may be permitted
6 to make bona fide intrafamily transfers.

7 (c) If a local jurisdiction includes provisions for bona fide intrafamily transfers
8 as part of its local program, the local jurisdiction shall permit a bona fide intrafamily
9 transfer to be made only from parcels of land that:

10 (1) Were of record on March 1, 1986 in the Chesapeake Bay Critical Area
11 or on June 1, 2002 in the Atlantic Coastal Bays Critical Area; and

12 (2) Are 7 acres or more and less than 60 acres in size.

13 (d) A bona fide intrafamily transfer from a parcel of land shall be a
14 subdivision of the parcel of land that is subject to local approval under the
15 "Subdivision Control" subtitle of Article 66B of the Code, under Title 7 of Article 28 of
16 the Code, or under any subdivision control provisions of a charter county.

17 (e) (1) A local jurisdiction:

18 (i) May approve the subdivision of a parcel of land into the number
19 of lots indicated in this subsection by means of a bona fide intrafamily transfer; and

20 (ii) May not approve any greater subdivision of the parcel of land or
21 any portion of the parcel of land.

22 (2) A parcel that is 7 acres or more and less than 12 acres in size may be
23 subdivided into 2 lots.

24 (3) A parcel that is 12 acres or more and less than 60 acres in size may be
25 subdivided into 3 lots. The lots may be created at different times.

26 (f) (1) As a condition of approval, a local jurisdiction shall require that:

27 (i) Any deed for a lot that is created by a bona fide intrafamily
28 transfer shall contain a covenant stating that the lot is created subject to the
29 provisions of this section; and

30 (ii) A lot created by a bona fide intrafamily transfer may not be
31 conveyed subsequently to any person other than a member of the owner's immediate
32 family, except under procedures established pursuant to subsection (g) of this section.

33 (2) This subsection does not prevent the conveyance of the lot to a third
34 party as security for a mortgage or deed of trust.

35 (g) If a local jurisdiction includes provisions for bona fide intrafamily transfers
36 as part of the local jurisdiction's local program, the local jurisdiction shall establish

1 standards and procedures, subject to the approval of the Commission, by which the
 2 local jurisdiction will permit the subsequent conveyance of lots to persons other than
 3 immediate family members. The standards and procedures shall assure that:

4 (1) The lot was created as part of a bona fide intrafamily transfer and
 5 not with the intent of subdividing the original parcel of land for purposes of ultimate
 6 commercial sale; and

7 (2) (i) A change in circumstances has occurred since the original
 8 transfer was made that is not inconsistent with this subtitle and that warrants an
 9 exception; or

10 (ii) Other circumstances that are consistent with this subtitle and
 11 with the Commission's criteria to maintain land areas necessary to support the
 12 protective uses of agriculture, forestry, open space, and natural habitats in resource
 13 conservation areas warrant an exception.

14 **Chapter 433 of the Acts of 2002**

15 SECTION 5. AND BE IT FURTHER ENACTED, That this Act may not be
 16 construed to apply to the initial development of the [Young Men's Christian
 17 Association facility located as follows: Starting at a point in Worcester County at the
 18 intersection of Gum Point Road and the Wilkerson-Steen property line, proceeding
 19 north to the Caffi-Steen line, following on to the Park-Steen line, on to the
 20 Chamberlain-Steen line, to the Parsons-Steen line, to the Wyatt-Steen line, at which
 21 point the line turns east on the Wyatt-Steen line, turning north at the Wyatt-Steen
 22 boundary line to the Ocean Pines Association-Steen southern boundary line with
 23 Ocean Pines, then turning east along the Ocean Pines-Steen line to the northern
 24 stream and ditch at Mud Creek, then follows the stream and ditch to Gum Point
 25 Road, then along Gum Point Road to the starting point] PROPERTY IN THE THIRD TAX
 26 DISTRICT OF WORCESTER COUNTY DEPICTED ON WORCESTER COUNTY TAX MAP 21
 27 ON A PORTION OF WHICH A YOUNG MEN'S CHRISTIAN ASSOCIATION FACILITY IS TO
 28 BE LOCATED, WHICH PROPERTY IS IDENTIFIED AS FOLLOWS: STARTING ON THE
 29 NORTHERLY LINE OF GUM POINT ROAD AT THE POINT WHERE IT INTERSECTS WITH
 30 THE LINE BETWEEN THE LANDS OF HARRY WILKERSON (PARCEL 135) AND STEEN
 31 ASSOCIATES, INC. (PARCEL 134); THEN NORTHERLY ALONG THE WESTERLY LINE OF
 32 THE STEEN PROPERTY (PARCELS 134 AND 118) AND THE EASTERLY LINE OF THE
 33 LANDS OF HARRY WILKERSON, VENERANDO CAFFI (PARCEL 34), OAK-KWANG PARK
 34 (PARCEL 15), CLINTON CHAMBERLAIN (PARCEL 207) AND GEORGE PARSONS (PARCEL
 35 72) TO THE LANDS OF JAMES WYATT (PARCEL 66); THEN BY AND WITH THE WYATT
 36 PROPERTY SOUTHEASTERLY AND NORTHERLY TO LANDS CONSTITUTING OCEAN
 37 PINES SECTION 10 THEN EASTERLY ALONG THE SOUTHERLY LINE OF OCEAN PINES
 38 SECTION 10 TO A DITCH AT THE HEADWATERS OF MUD CREEK; THEN BY AND WITH
 39 MUD CREEK TO THE NORTHERLY LINE OF GUM POINT ROAD; THEN WESTERLY
 40 ALONG GUM POINT ROAD TO THE STARTING POINT.

41 SECTION 6. AND BE IT FURTHER ENACTED, That:

42 (1) Section 5 of this Act shall take effect only if, on or before July 1, 2003:

1 (i) THE YOUNG MEN'S CHRISTIAN ASSOCIATION HAS ACQUIRED THAT
2 PORTION OF the property described under Section 5 of this Act DESIGNATED FOR ITS
3 FACILITY [has been acquired by the Young Men's Christian Association]; and

4 (ii) three of the four following State permits are issued to the YMCA:

- 5 1. groundwater discharge or surface water discharge;
- 6 2. nontidal wetlands;
- 7 3. water quality certification; and
- 8 4. water appropriation; and

9 (2) If the events described under paragraph (1) of this section do not occur on
10 or before July 1, 2003, with no further action required by the General Assembly,
11 Section 5 of this Act shall be abrogated and of no further force and effect after July 1,
12 2003.

13 (3) If the events described under paragraph (1) of this section occur, the
14 property remains subject to the growth allocation provisions of the Critical Area law
15 and regulations.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
17 effect June 1, 2003.